Collins (R) 7

THE CAUSE OF England's Misery:

Or, A Brief

ACCOUNT

OF THE

Corrupt Practice of the *LAW*.

HUMBLY

Offer'd to the Consideration of the Lords Spiritual and Temporal, and Commons in Parliament Assembled.

London, Printed in the Year 1698.

England's Misery:

Or, a Brief

ACCOUNT

OF THE

Corrupt Practice of the Law, &c.

GReat Complaints have been publickly made, setting forth the wicked Practices of the Professors of the Law, and those who have dependance upon the same, by which I conceive, has been plainly made appear the great Calamity of the People, and how Thousands of Families have consequently been ruin'd thereby. Yet notwithstanding the Interest of those professing the Law, hath been hitherto so great, no Care has been taken to redress the same. But finding that few particular Instances in Relation to Fact (which always makes a greater Impression upon the Minds of Men than a general Notion of things) have been given of Matters of this Nature; therefore I conceive my self obliged by the Duty I owe to my Native Country, as well as in order to my own Preservation, to give a brief Account of the evil Usage my self and some Friends have met withal from

Perſons Profeſſing the Law: By which, (if we Judge by the Rule of Proportion) the Miſery of the People in General will manifeſtly appear. And that according to the preſent practice of the Law, no Man is ſafe, but liable to be Eaten up and Devoured.

There's none concern'd in Merchandice, Trade, *&c.* But muſt unavoidably have Diſputes, ſome of which will conſequently beget Law-Suits, which often times are ſeen to prove (as things are now managed) to be the Ruin both of the Plaintif and Defendant, and many Suits appear to be kept on Foot only to promote the Intereſt of Attorneys, *&c.* all which Evils come to paſs principally through the Remiſneſs, or rather, groſs Corruption of the Judges, who are intruſted with the Executive part of the Law, and want not Power to check and put a ſtop to all theſe Evil Practices; which ſpin out as it were the very Bowels of the People. So that we who have been for many Ages paſt, the happieſt People in the World; and even the envy of other Nations, are now become the Miſerableſt People in the Univerſe, only for want of our Laws being duly Executed; yet leſt it ſhould be ſaid I Caluminate Perſons, and am not able to prove Matter of Fact, I ſhall give a ſhort Relation of ſeveral Matters, not long ſince Tranſacted (ſome of them very lately) which I conceive will fully Demonſtrate what I ſay, *viz.*

1 There was a certain Perſon came to my Houſe, to Lodge and Diet, pretending to be a Lady, (was Recommended to me as ſuch) and in ſome time, ſhe became Indebted to me, by Moneys Lent, *&c.* about 30*l.* for which ſhe gave me Bond; then I diſcovered her to be a Cheat, upon which ſhe fled from my Houſe, and it was ſome Years before I found her out; then I Arreſted her, which begot a Law-Suit, that coſt me near 40*l.* yet I am kept out of my Money to this day; and tho it was then publickly known, this Woman was a profligate Wretch, who had eſcap'd out of *New Gate*, and had ſeveral pretended Husbands (ſome of which had been Executed at *Tiburne*, as Fellons) yet in this very Suit, was admitted as a Pauper at

one

one and the ſame time, both in the *Kings-Bench* and *Chancery*, (tho my Debt as hath been ſaid was upon Bond,) ſhe produced about 18 Witneſſes, not one of them appearing to be of any Reputation: Nay, my own Attorney who knew what Wicked People I had to deal withall, and to whom I gave ſtrict orders to be careful of my Buſineſs, ſuffer'd me to be Non-ſuitd to my Coſt, 6*l*. 6*s*.

2. This pretended Lady, and her Gang, was not ſatisfied in Engaging me in Two Suits of Law, for they and ſome Lawyers did prompt and excite, a Young Man to Sue me, (whom I had brought up from a Child, and put forth an Apprentice at my own proper Coſt and Charge,) tho he had no Juſt Ground ſo to do, being prompt thereunto by this Gang, and ſome Lawyers, (as he has ſince with ſorrow confeſt to me) upon which I had him before a Judge, but could have no relief; but in a little time, the Young Man was ſenſible of his folly, and of his own accord, came to me and beg'd Pardon for what he had done; ſo we went to the Attorney and order'd him to ſtop Proceedings. Yet now my Attorney brings me in a Bill upon this account, tho there was no Proceedings thereupon; but his wickedneſs to me will farther appear; which at preſent I ſhall wave, and go upon other Matter.

3. I was Truſtee for Two Young Men for ſeveral Years, and the Account between them and me, was Stated by Two Attorneys, who Audited the ſame, and ſet their hands thereunto; yet ſome Years after theſe unhappy Young Men, met with ſome Lawyers that put them upon Suing of me, tho there was not the leaſt Ground for it, as in the end it did appear, to the High Court of *Chancery*, the Matter having been Twice referred, by Order of Court, to a Maſter in *Chancery*, who Audited the Account, in the preſence of Two Counſellors at Law; this Unjuſt Suit was near 200*l*. Charge to the Young Men, to the utter Ruin of one of them; who lays his Ruin, and I think Juſtly, at the Lawyers Door, as the Cauſe thereof.

4. I took out a Writ against a certain Person; upon which a Bayliff took him, and took Bail of him in his own Name; then came to me, and swore desperately, if I would not give him 40 *s.* he would let his Prisoner go. I not complying with his unreasonable Demands, he arrested me; whereupon I summon'd him before a Judge, who did acknowledge, and say I was much abused, yet would do me no Justice, but seem'd rather to encourage the Bayliff, thereby to bring (as I suppose) more Grist to the Mill; so I was glad at last to give the Bayliff 4 *l.* to be rid of him, and secure my Debt.

5. The Attorney, whom I before did make mention of, I did employ in several Businesses; for doing which, he sent me in a Bill of 13 *l.* odd Money, and in some Months after sent another Bill of 17 *l.* (both referring to one and the same Business) and then sent me several threatning Letters, that if I did not forthwith pay him, he would arrest me; upon which I summon'd him before a Judge, before whom he appear'd, and whisper'd to him, and then gave into his Hand another Bill of 25 *l.* which I never saw otherways than in the Judges Hand; whereupon I acquainted his Lordship that I had two Bills before given me, either of which I was willing to have tax'd; but it would not be granted, tho' I offer'd to prove that I had paid him 7 *l.* 10 *s.* and that he charged me with near Five Pound for Counsel Fees, which he never disburs'd, and that he had a Bill of 10 *l.* of mine in his Hands, and that he charg'd me 20 *s.* for viewing some Writings in my Hands, when I never employ'd him, he having been employ'd by another Person, who gave him 20 *s.* for his Pains; (nay, he had the Confidence to tell his Lordship, that he examin'd two Cart-loads of Papers by my Order, when as all of them were in a small Deale-Box.) The Judge was very attentive to him, but would not hear me, tho' I offer'd to swear it (as I have since done before another Judge) and so sign'd and order'd the 25 *l.* Bill to be tax'd, and that I should pay in to one of the Prothonitors of the *Kings-Bench* 25 *l.* in Money, which I thought to be a great Hardship put upon me, when I was not in his Debt; where-

upon

upon I waited upon the Judge again, and took a Friend along with me, who endeavour'd to Convince his Lordſhip, but all to no purpoſe, tho I offer'd to depoſite the Money in a third Perſons Hand, yet he would not recin'd from what he had done, but 25 *l.* I muſt pay in; upon which my Friend went to my Attorney, and asked him why he was not willing to have either of his former Bills tax'd; He deny'd that ever he gave me any Bills before, whereas I have his Bills and Letters by me to prove it; but he ſhew'd my Friend the Bill ſign'd by the Judge, and ſaid, if I would not have that tax'd, he would Arreſt me before Night. This was about a Month ſince, but he has not done it yet; ſo the Matter's ſtill depending.

6. A Relation of mine ſued a certain Perſon for 50 *l.* he was indebted to him; in proſecuting of which Suit he ſpent above 200 *l.* before he could recover his Debt; and in this Cauſe, between Plantiff and Defendant, there was ſpent above 500 *l.*

7. A certain Perſon came to a Shop-keeper (a Man of known Reputation) and deſir'd him to give him Silver for a Broad piece of Gold; according to his Requeſt he gave him the Money, but this Perſon, by a Trick of Ledgerdemain gave him a Broad Guilt Shilling, inſtead of a piece of Gold. The ſame Day it was done, he found he was cheated, and ſo made Search after the Perſon that did it; who finding himſelf diſcover'd, and that he was like to fall into Trouble, was too quick for the Shop-keeper; for he takes out a Warrant againſt him, and had him before a Juſtice of the Peace, for Scandalizing of him; upon which, the Shop-keeper, and his Wife, acquainted the Juſtice of the Peace with the whole Circumſtance of the Matter, and offer'd to ſwear it, yet the Juſtice of the Peace would not admit him to his Oath, but bound him over to the next Seſſion of the Peace for Scandalizing the worthy Gentleman; but afterwards (not without great Trouble) he took him up with a *Bench Warrant*, and the Matter was tried at *Hicks's-Hall*, where that and other

Crimes

Crimes of the like nature were fully prov'd upon him, (tho he produced near 20 Witneſſes ſuch as they were) for which he was by the Court Fin'd 40*l.* but it was reduced to 20*l.* which he immediately paid and went off, and the honeſt Shop-Keeper in proſecuting this Matter was at above 12*l.* Charge, and like to have no Satisfaction; for if he could meet with this Wicked Perſon, he ſays he dares not Sue him, ſeeing there is ſo great Corruption in the Practice of the Law.

8. A Gentleman was unjuſtly Sued for 100*l.* yet in Defending himſelf, in that Suit he ſpent above 120. tho he did not pay the Debt, he had paid the better part of the Money to his Attorney who Arreſted him before he gave him a Bill, after which the Attorney gave him a Bill; and he Objecting againſt ſome things in it; in a little time his Attorney gave him another, and made his Account above 10*l.* more, and then Laught at him; upon which he was adviſed by ſome Friends to get the Bill Taxt, but others telling him how Corrupt things were, adviſed him rather to pay the Attorney, then Involve himſelf in farther trouble, which he accordingly did.

9. In the Year 1692 a *French* Ship and Cargo, called the St *Nicholas* of *Haverdegrace*, of the value of near 3000*l.* in the open Seas was Seized by Three *Engliſh* Sailors on Board, (who had been Captivated into *France*) and Carried into *Tenby*, Dependant upon the Port of *Milford*; upon which *Walter Midleton*, Collector of the ſaid Port, *&c.* Unladed the Veſſel by Night, and Embezeled the Cargo, and withall Committed the Three *Engliſh* Sailors to the Common-Goal, at the ſame time Diſmiſſing the *French*, who had been brought in as Priſoners. Information thereof being given to the Admiralty-Court, Commiſſions of Enquiry were thence Iſſued, and upon Examination the Embezelments fully prov'd, and Sentence paſſed on behalf of the King; whereupon the Offenders moved for, and obtained a Prohibition out of the *Exchequer* to ſtop all further Proceedings, which is continued to this day; ſo the Spoil ſeems to have been divided among them; The poor Sailors were continued many Months in Priſon, and did not obtain their Liberty without great difficulty

difficulty ; since which one of them has been Kill'd in the Publick Service, another of them taken by the *French*, and carried to St. *Maloes*, where he was (as 'tis said) Murthered ; and one *Walter Jenkins* *, whom the Sailors Employ'd in Prosecuting this Matter, as did likewise the Lords of the Admiralty on behalf of the King (who has been at Two or Three Hundred Pounds Charge in the Prosecution) appears to have been as ill treated as the poor Saylors, although their Lordships often gave him assurance, *That if he prov'd the Facts, he should not only be satisfied for his Trouble and Expence, but very well rewarded* ; and tho he executed several Commissions, and hath attended this Matter for above *Five Years* (having been drill'd on, and fed with vain Hopes from time to time, to the utter Ruin of him and his Family) and expended a considerable Sum of Money, yet has not been able to obtain any Satisfaction, otherwise than that about *Three Months* since the *Lords of the Admiralty* sent for him, and told him at a full Board, *If he would not concern himself any more in this Matter, but retire into his own Country, they would order him* 10 *l.* which he was constrain'd, thro his great Necessity, to take.

An Attorney gave in a Bill of 13 *l.* to a Friend of mine, that summon'd him before a Judge, who reduc'd the Bill to 29 *s.*

11. Another Bill of 40 *l.* was given by an Attorney, which the Judge reduc'd to 7 *l.* and withal told my Friend, *that if he pleased he would lay the Attorney by the Heels.*

(*) This poor afflicted Man lodges at one *Barder's*, in *King-street*, *St. Giles's*, and is one of the greatest Objects of Charity that ever Eyes beheld. There's no Question but a Multitude of such like Crimes have been committed ; for there plainly appears to have been a Combination to cheat the King and Subject; the only Satisfaction the King and Kingdom can have, is Confiscating the Estates (the Spoyles of the People) of those who have been the Principal Actors; which is a thing, would be highly pleasing to all honest Men, of what Perswasion soever.

12. Another Bill of 60 *l.* was given in by an Attorney, who was ſummon'd before a Judge, that reduc'd the ſaid Bill to 14 *l.*

Theſe three Caſes, which I have laſt Recited, may ſeem to be great Acts of Juſtice; yet with Submiſſion in my Apprehenſion they are not ſo, but particular Acts of Favour and Kindneſs, in regard the Judges (who are ſworn to do Impartial Juſtice) did not puniſh the Attorneys *, by diſabling them to practice for the future; for having made ſo great and notorious a Breach of the Oath they took, when they were admitted to practice as Attorneys, they at the ſame time being Inveſted with a Power, which enabled them ſo to have done. So that all this amounts to no more than as if I ſhould take up a Perſon, who had cheated me, and have him before a Juſtice of the Peace, who ſhould oblige him to reſtore to me what he wrong'd me of; and afterwards diſmiſs him, and give him leave to cheat any Body elſe whom he pleas'd: For ſo it is, that when Men are not puniſh'd for their Offences, it does but encourage them and others to Commit the like Crimes for the future, and to be more wicked than they were before; which plainly demonſtrates any Nation, having good Laws that are not kept, ſerve only to make the People ſo much the more miſerable.

And whoever does but conſider how Counſellors *** and Attorneys at Law, are oblig'd by their Oaths, not knowingly to engage in any Evil Cauſe, or to encreaſe Fees, and views but

---

(*) There are a ſort of Men among us who practice (in other Men's Names) as Attorneys that are not ſo; it were happy for the People they were ſuppreſs'd, and that all Attorneys were reſtrain'd in their taking Clerks, (as ſeveral Companies and Trades are in *London*, to prevent their being ſo numerous) and not ſuffer'd to fill the City and Country, as they do, with Splitters of Cauſes; it's one of the greateſt Evils that can befal a Nation to be overſtock'd (as we are) with Lawyers.

** There's no doubt there are many worthy Gentlemen that practice the Law, who are great Enemies to theſe Corruptions, and would gladly ſee them Remov'd.

the

the Practice of them every *Term*, can hardly conclude otherways, than that they are, for the moſt part, dreadfully Perjured, which they ſeem to be hardened in, for its well known they generally make but a Jeſt of it.

And thoſe few Inſtances that have here been given of their Evil Practices, cannot be judg'd to be the hundred thouſandth Part of the Miſery the People of this Nation undergo, by reaſon of the Corruption of the Law, and without all Controverſie, a Multitude of Families are every Year Ruined thereby, for many Thouſands of Perſons may reaſonably be ſuppos'd to be engaged in Suits at Law, that underſtand nothing of the Law, but refer all to their Attorneys, and if they find they are ill treated by them, and a Diſpute happens to ariſe between them, they are not able to contend with them, but for the moſt part lie at their Mercy to do by them even as they pleaſe; yet if any are ſo hardy as to contend with their Attorneys, ſo as to have their Bills Tax'd, generally ſpeaking, they can have little Reaſon to expect Relief (Experience tells me, and other Men ſo) upon the Account they who are Judges of the Matter, are Brethren * of the ſame Quill, from whom a Man has no where to Appeal, inſomuch that many Honeſt Men are now afraid to Sue for their Juſt Rights, for fear of waſting their Eſtates, by being involv'd in Chargeable and Long Suits, and it's even my own Caſe at this time.

So that what by the Evil Practice of the Law, and the Corruptions that have crept into the Government during the late War (occaſion'd by Reaſon of His Majeſty's frequent and long Abſence) the People in general are brought into great diſtreſs,

* Theſe Gentlemen Purchaſe their Employments or Places, which are but for Life, with large Sums of Money, and having no Leaſe of their Lives, run great Hazards, and conſidering the general Corruption there is in the Practice of the Law, and the Temptation they lye under, it cannot be ſuppos'd but that they will be willing to make uſe of their time, as well as other Men, by which may be ſeen, what Miſery the People are expos'd to, by the Buying and Selling Employment.

Trade † being reduced to a very low Ebb, and Handicrafts-Men and Artificers, who formerly us'd to Live Plentifully, and well, are now brought ſo low, that if ſome ſpeedy care be not taken to revive Trade, Thouſands of Families in this Nation will be in great danger of being Starv'd.

Whatever *Engliſh Man* has been abroad in *Foreign Countries* (as I have been) and ſeen with what little Expence, and how ſoon Law Suits are there brought to a period, cannot, without Regret, behold the preſent miſerable Condition of his *Native Country*, the more, in regard, it ſo viſibly appears to have been brought upon us by the wickedneſs of ſome Perſons among our ſelves. With my own Eyes have I ſeen honeſt worthy Perſons, who detected and prov'd Notorious Crimes, publickly Ruined, and ſuffered to periſh through Grief and Want. Yet notwithſtanding all theſe Evils, it muſt be acknowledg'd, we have the beſt Prince, and the beſt Laws of any Nation in *Europe*. So that now, upon this *Happy Peace*, we have no Reaſon to queſtion His Majeſty's Goodneſs to his People; and it's the juſt Apprehenſion of His Majeſty's Goodneſs and Juſtice, that makes me look back with Comfort upon the Happy and Glorious Reign of Queen *Elizabeth*; in her time, no Man durſt Embezel or Miſſpend the Publick Treaſure; and if any of her Judges ſhould have been heard publickly to declare, the Perquiſites of his Place was worth 3000 *l. per Annum*, She would ſoon have Caged him, and found a Perſon more worthy to fill the place. *Edmond Bohun*, Eſq; who Writ the Life of this moſt excellent Princeſs, in Page 60. ſays, *She well conſidered whatever was recommended to her, as uſeful to any part of her State, carefully viewing the Conveniencies, and the Ill Conveniencies thereof; and what was at laſt found Uſeful or Profitable to the Body of her People, was Setled by Authority.* It was a Maxim with her, *That Equi-*

† Men bred to Trade (as I was) have the greateſt opportunity of knowing the Decay or Growth of *Trade*, and ſo are ſooner made ſenſible of the Calamity of the *People*, than thoſe of higher Rank, though they are not ſo well able to Expreſs their *Thoughts*.

table

table Laws, and Equal Justice, are the Two Sure and Lasting Foundations of a State, Page 64. *She dealt very severely with all those that were found guilty of Frauds or Cheats in the Publick Revenue, which sort of People She us'd to call* Harpies. *She discouraged, as much as was possible, all the Tricks and Corruptions in the Courts of Justice,* Page 296. *She Increased the Wages of her Judges, that she might deliver them at once from the Temptation and Suspicion of Bribery.*

She Passed an Excellent and most Equitable Law, for the more speedy Determining the Cases depending in her Courts. She Admonished her Judges, That they should consider the Judgment or Jurisdiction they exercised was God's, and advis'd them diligently to Study the Law, in relation to the Profit of the State, and not shew the sharpness of their Wits by a Falacious Interpretation of a doubtful Law, to the Injury of the People, but that without Partiality, they should administer Equal Justice to all, and severely punish those they found Guilty. Page 316. *It was the rare Felicity of her Times, that Men were Advanced to Honours without their seeking it, and sometimes against their Wills, being promoted for their Vertues, not Fortunes.*

She would often tell those She Entrusted, That they might rest assured, She would reward their Integrity, Industry, and Equity, and if she found them Guilty of any Injustice and Oppression, She would as certainly Punish them for it. She would never entertain into her Service any Ignorant, Covetous, Dishoneſt, or Licentious Person.

She was an exact Observer of Justice, which is the most Resplendent of all the Moral Vertues, and of Veratity and Constancy to her Word, which is the Foundation of Justice. She was extreamly severe against all that broke her Laws, *and punished sometime small Offences with great Severity.*

Page 322. *In all Private Suits She was observ'd to be a Religious Observer of Justice and Equity, and to keep the Balance even between the Greateſt and the Meaneſt of her Subjects; She preserv'd*

the

the Pooreſt from Wrongs, and made it her care that every Man might enjoy his Own, and ſerve the Publick with it, by the Impartiality of Juſtice, and the Equity of all Law Proceedings, providing carefully for the Preſervation of Humane Society, for the good of the Whole Community.

Page 394. *In her Progreſs ſhe was moſt eaſie to be approached by private Perſons and Magiſtrates; Men and Women, Country People and Children came joyfully, and without any Fear, to wait upon her, and ſee her. Her Ears were then open to the Complaints of the Afflicted, and of thoſe that had been any way injured, ſhe would not ſuffer the meaneſt of her People to be ſhut out of the Places where ſhe reſided; but the greateſt and the leaſt were then in a manner levelled. She took with her own Hand, and read with the greateſt Goodneſs, the Petitions of the meaneſt Ruſticks; and ſhe would frequently aſſure them that ſhe would take a particular Care of their Affairs, and ſhould ever be as good as her Word.*

She by her Royal Authority protected thoſe that were Injur'd and Oppreſſed;

She Puniſhed the Fraudulent, Falſe, Perfidious, and Vicked.

It has always been my Opinion, *He that that doth not ſympathize with, and hath not a Fellow-feeling of the Calamity and Miſery of others, cannot properly be ſaid to be a Chriſtian; for I conceive we are not born barely for our ſelves, and the Good of our own Families, but are ſtrictly obliged, by the Dictates of that Holy Religion we profeſs, to do all ſuch Acts as tend to the Good and Benefit of Mankind in general.*

It was a due Apprehenſion of this general Duty that enduc'd me to appear in Print; and however, though I may be cenſured by ſome Perſons, yet I call God to witneſs, that what I have done therein, has not been out of Malice or Pre-

Prejudice to any Perſon, or that I propoſe to my ſelf any Advantage thereby (for I neither ſeek or want any Employ) but only a Hearty and Sincere Deſire to ſerve my Country, by laying theſe things before this *Moſt Auguſt Aſſembly*, being ſenſible there's too many that endeavour, as much as in them lies, to Stifle and Conceal the People's Grievances, and keep them from the Knowledge of the *King* and *Parliament*, hoping thereby to eſcape the Hands of Juſtice. The not puniſhing Offenders upon the Abdication of the late King *James* ſeems to have been one great Occaſion of all theſe Evils; and now if thoſe that are Offenders ſhall eſcape Puniſhment, the Nation can then expect no Security for the future. The puniſhing Offenders will be doing the People Juſtice, and ſupplying of the King's Wants, and which appears to be the only Means whereby to Re-eſtabliſh Juſtice, and make him and His People happy.

Feb. 3. 169⅞. *Richard Collins.*

FINIS.